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FACSIMILE COVER SHEET

Date: December 21, 2001

FAX RECEIVED

DEC 26 2001

GROUP 3700

TO: Examiner Walczak
Fax 703/872-9303

FROM: Brian Mattson, Reg. No. 35,018, Attorney for Applicant

Re: U.S. Serial No.: 09/510,087
Inventor: Smith
Attorney Docket No.: EVS-P -99-017
Title: A MARKING DEVICE, A METHOD OF USING THE SAME AND AN
ACCESSORY KIT FOR THE MARKING DEVICE"

NO. OF PAGES INCLUDING THIS SHEET: 7

MESSAGE:

Pursuant to your suggestion, we are faxing you a copy of our response to the Office Action dated April 30, 2001 for the above-identified application. We mailed a response to the Office Action by Express Mail, Post Office to Addressee on October 26, 2001. We submit a copy of the following:

1. Continued Prosecution Application Request Transmittal
2. Certificate of Mailing
3. Check for \$265.00
4. Check for \$370.00
5. Return Receipt postcard
6. Express Mail Post Office To Addressee Mailing Label
7. Express Mail Receipt

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If you have any questions or require additional information, please do not hesitate to contact us.

CONFIDENTIALITY NOTICE

THIS FAX TRANSMISSION CONSISTS OF CONFIDENTIAL AND/OR ATTORNEY CLIENT PRIVILEGED AND/OR ATTORNEY WORK PRODUCT INFORMATION, AND IS INTENDED FOR THE ADDRESSEE ONLY. IF YOU RECEIVE THIS FAX IN ERROR, PLEASE CONTACT US TO ARRANGE FOR THE RETURN OF THIS MATERIAL. ANY USE OF THIS MATERIAL BY ANYONE OTHER THAN THE ADDRESSEE INDICATED ABOVE IS STRICTLY PROHIBITED.

If you have any problems with this transmission, or if you do not receive all pages, please telephone: 773/772-6009. Thank you.

**CONTINUED PROSECUTION APPLICATION (CPA)
REQUEST TRANSMITTAL**
(Only for Continuation or Divisional Applications under 37 CFR 1.53(d))

DUPLICATE

Address to: Assistant Commissioner for Patents Box CPA Washington, DC 20231	Attorney Docket No.	EVS-P-99-017
	First Named Inventor	SMITH
	Examiner Name	WALCZAK
	Group Art Unit	3751
	Express Mail Label No.	EL613926721US

This is a request for a X continuation or _____ divisional application under 37 CFR 1.53(d).
(continued prosecution application (CPA)) of prior application number 09/510,087
filed on February 22, 2000, entitled "A MARKING DEVICE, A METHOD OF USING THE
SAME AND AN ACCESSORY KIT FOR THE MARKING DEVICE"

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a non provisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000)

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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1. ☒ Enter the unentered amendment previously filed on September 21, 2001 under 37 CFR 1.116 in the prior non-provisional application.
2. ☐ A preliminary amendment is enclosed.
3. ☐ This application is filed by fewer than all the inventors named in the prior application. 37 CFR 1.53(d)(4).
 - a. ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application: _____
 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new Power of Attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations

CLAIMS AS FILED				
(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) FEE \$355.00
TOTAL CLAIMS	20	0	9.00	0
INDEPENDENT CLAIMS	4	0	39.00	0
	ANY MULTIPLE DEPENDENT CLAIMS? ()YES (X)NO			
			TOTAL FILING FEE ->	\$370.00

6. ☒ Small entity status: Applicant claims small entity status. See 37 CFR 1.27.
7. ☒ Applicant petitions the Assistant Commissioner for a 3 MONTH extension of time so that the period for response is extended to OCTOBER 30, 2001. A check in the amount of \$ 265.00 to cover the extension fee is enclosed.
8. ☒ The Commissioner is authorized to charge any additional fees which may be required in connection with this application, or credit any overpayment to Account No.50-0595. A duplicate copy of this sheet is enclosed.
9. ☒ A check in the amount of \$370.00 is enclosed.
10. ☐ Payment by credit card. Form **PTO-2038** is attached.
11. ☐ Applicant request suspension of action under 37 CFR 1.103(b) for a period of months (not to exceed 3 months) and the fee under 37 CFR 1.17 (i) is enclosed.
12. ☐ New Attorney Docket Number, if desired _____
[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]
13. a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
b. ☒ Return Receipt Postcard (Should be specifically itemized. See MPEP 503)

NOTE: The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.

14. NEW CORRESPONDENCE ADDRESS:

Name: _____
Address: _____
City/State/Zip Code: _____
Country: _____
Telephone/Fax: _____

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

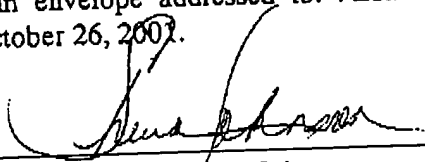
By: 

Brian M. Mattson Reg. No. 85,018
Patents+TMS
A Professional Corporation
1914 N. Milwaukee Ave.
Chicago, Illinois 60647
Telephone: (773) 772-6009
Attorney for Applicant

When phoning re: this application
please call Brian M. Mattson at 773/772-6009

CERTIFICATE OF MAILING

I hereby certify that this **Continued Prosecution Application Request Transmittal**,
Check for \$265.00 and **Check for \$370.00** are being deposited with the United States Postal
Service as Express Mail in an envelope addressed to: Asst. Commissioner for Patents,
Washington, D.C. 20231 on October 26, 2001.



Sheria Johnson

PATENTS & TMS
BRIAN MATTSON
VICKI WEATHERHOG
1914 N MILWAUKEE AVE
THIRD FLOOR
CHICAGO, IL 60647

1944

WCMA® Working Capital Management Account

PAY TO THE ORDER OF

DATE 25-80/440

Asst. Commissioner for Patents \$ 370.00
Three hundred and seventy 00/100 DOLLARS

Merrill Lynch

BANKONE, BANK ONE, COLUMBUS, OH

MEMO EVS-P-99-017

001944 044000804 04113123567

1943
PATENTS & TMS
BRIAN MATTSON
VICKI WEATHERHOG
1914 N MILWAUKEE AVE
THIRD FLOOR
CHICAGO, IL 60647
TO THE ORDER OF
Asst. Commissioner for Patents \$ 265.00
Two hundred and sixty five 00/100 DOLLARS
Merrill Lynch
BANKONE, BANK ONE, COLUMBUS, OH
MEMO EVS-P-99-017
001943 044000804 04113123567

- TO:
ASST. COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231
APPLICANT: SMITH
ATTY. DOCKET NO.: EVS-P-99-017
U.S. Serial No.: 09/510,087
ENCLOSED:
1. CPA Request Transmittal (duplicate)
2. Check for \$265.00
3. Check for \$370.00
MAILED ON: October 25, 2001
Via Express Mail

Customer Copy
Label 11-F July 1987

Received from < 773 772 3210 > at 12/21/01 12:00:28 PM [Eastern Standard Time]